

DRAFT
WASHINGTON STATE BOARD OF OPTOMETRY
MINUTES OF MEETING

A meeting of the Washington State Board of Optometry was called to order at 9:00, on September 26, 2003, by R. Richard Ryan, Jr., O.D., Chair. The meeting was held in the Department of Health Administrative Offices, 20435 72nd S, Second Floor, Kent Washington, Conference Room One.

BOARD MEMBERS PRESENT: R. Richard Ryan, O.D., Chair
 Lund Chin, O.D.
 Mary Lou Staples, Public Member
 Thomas Riley, O.D.
 Jeffrey Sutro, O.D.
 Ben Wong, Jr., O.D.

STAFF PRESENT: Marc Defreyn, Assistant Attorney General
 Kristen Mitchell, Assistant Attorney General
 Judy Haenke, Program Manager
 Melissa Quirke, Administrative Assistant

OTHERS PRESENT: Karl Bronwer, Walmart Vision Centers
 Sherri Egashira, O.D., Optometric Physicians of
 Washington (OPW)
 Tim Layton, Washington Academy of Eye Physicians&
 Surgeons
 Mike McCowan, O.D., OWP
 Brad Tower, OPW
 Mike VanBroklin, O.D., OPW

ORDER OF AGENDA

OPEN SESSION:

1. Call to Order

1.1 Approval of Agenda

The agenda was approved with the following changes:

- A lunch break was specified.
- Kristen Mitchell, AAG, incoming Board Advisor was introduced.
- Item 12: Deferred to a future meeting.

- Consideration of a request from Brett Bence, OD, was moved to 'Other Business', Item 13.
- Future meeting dates were set under Item 13.

1.2 Approval of Minutes of March 14, 2003, Meeting

The minutes of the March 14, 2003 meeting were approved as written.

1.3 Introduction of Public Member, Mary Lou Staples

Mary Lou Staples was recently appointed by Governor Locke to fill the position of outgoing public member Bernice Hoptowit. Mary Lou has a bachelor degree from the University of Washington and earned her nursing degree at Columbia Basin College.

a. Public Member Training Proposal from Optometric Physicians of Washington (OPW).

The Board considered a proposal from Sherri M Egashira, O.D, OPW liaison to the Board. In her proposal, Dr. Egashira suggested that Ms. Staples travel to Pacific University for an orientation visit, which Pacific University would be willing to arrange. Dr. Egashira also encouraged all Board members to attend the orientation visit. Marc Defreyn, AAG added that such an orientation visit would be beneficial for himself or other Assistant Attorney General Advisors to the Board.

Following discussion, the Board determined that Ms Staples would visit the practice of R. Richard Ryan, O.D., and the practice of Thomas Riley, O.D... The Board agreed that an orientation visit to the school might be beneficial. Staff was asked to explore the cost and feasibility of an orientation visit to Pacific University at the Portland, Oregon location.

b. Introduction of Kristen Mitchell, AAG

Marc Defreyn, AAG, introduced Kristen Mitchell, AAG. Ms. Mitchell will be replacing Mr. Defreyn as Assistant Attorney General Advisor to the Board. Mr. Defreyn has taken a position with the Department of Health.

2. Authorization for Oral Medication and Injectable Epinephrine Proposed Rules for Training and Oral Medications Formulary

2.1 Report from R. Richard Ryan, O.D. and Thomas Riley, O.D.

Dr. R. Richard Ryan, O.D., and Thomas Riley, O.D. provided a summary of the meetings and activities held to date as part of the process of developing rules to implement recent legislation for authorizing optometrists for oral medication. Meetings to date have included:

- June 12, 2003 – Dr. Ryan and Dr. Riley met with Board of Pharmacy liaisons to discuss methods of consultation.

- June 13, 2003 – Optometry Board Meeting – stakeholder meeting and development of the first draft rules.
- July 18, 2003 – Stakeholder meeting in Leavenworth.
- July 23, 2003 - Dr. Ryan, Dr. Riley, and Dr. Chin attended the Pharmacy Board meeting to facilitate a presentation to Pharmacy Board by the Optometric Physicians of Washington and to respond to questions.
- September 8, 2003 – Stakeholder meeting at the Department of Health Administrative Offices in Kent.
- September 12, 2003 – Dr. Ryan and Dr. Riley met with liaisons from the Board of Pharmacy.

2.2 Rule Writing Worksession

Dr. Riley led the Board and stakeholders through the most recent draft of the oral drug formulary dated September 16, 2003.

Thomas Riley, O.D., led the Board through the most recent draft of the proposed oral drug formulary dated September 16, 2003. Comments were taken from stakeholders who were present including Michael VanBrooklin, O.D., OPW, Brad Tower, OPW, Mike McCowan, O.D., OPW, Sherri Egashira, O.D. OPW and Tim Layton, Washington Academy of Eye Physicians and Surgeons.

Following discussion, the Board agreed that the current draft formulary should be revised to reflect:

- A list of categories of medications of Schedule III through V controlled substances and any oral legend drugs (excluding corticosteroids); and
- Guidelines for the use of the medication within the categories. These guidelines will address safety issues, provide limitation and exclusions. The Guidelines may also provide a mechanism for the approval and inclusion of drugs subsequently approved for ocular use.

The Board will consider the revised formulary at a meeting on October 14, 2003. The meeting will be open to the public. The purpose of meeting will be consideration of the proposed draft formulary. The revised formulary will be presented to the Board of Pharmacy at a joint Board of Optometry/Board of Pharmacy meeting scheduled for November 14, 2003. The October 14, 2003 meeting will also consider final review of proposed rules for required training to use oral medications. The Board will appear through telephone conference.

3. 2004 Post Graduate Education Seminar

3.1 Proposal from Optometric Physicians of Washington

The OPW scheduled its annual meeting for March 10-13, 2004, with the intention of offering a trade show on Saturday March 13, 2004. The Board Post-Graduate Seminar is scheduled for March 13-14, 2004. With the passage of the SB 5226, OPW now plans to

offer the required training as part of the annual meeting. To do so, OPW plans to extend the annual meeting through Saturday, March 13, 2004.

Following discussion, the Board agreed that due to scheduling conflicts with training offered by OPW for those who plan to seek endorsement for use of oral medications, the Board seminar at Kane Hall will be held on Sunday, March 14, 2003, only. The Board stated that the seminar is scheduled for two days in March 2005.

3.2 Proposed Speakers for 2004

Thomas Riley, O.D., is finalizing speakers for the one-day event.

4. Medical Quality Assurance Commission - Request for Feedback Proposed Policy on Use of Lasers in Skin Care and Treatment

The Board first reviewed this policy at its meeting on June 13, 2003. The Board deferred comment on the policy pending clarification on two points raised by the draft policy:

- Does the proposed policy mean to imply that a physician can delegate a laser procedure to optometrists?
- When referring to an “allied health professional”, is that reference meant to be only those who hold a professional license?

The policy has been reviewed from the draft considered by the Board on June 13, 2003.

The revised policy does say that the allied health professional must have appropriate documented training in the area of basic dermatology and demonstrable training in the safe and effective use of a laser. The allied health professional may need significant medical training, such as that possessed by a registered nurse or a physician assistant.

Under the revised policy, an “allied health professional” is defined as “...a person licensed, certified, or registered to practice a profession governed by RCW 18.130.

The physician should be appropriately trained in techniques of lasers and should take a history, perform a physical exam, make a diagnosis, recommend treatment, obtain informed consent **which may include that a non-physician may operate the laser**, provide instructions for emergency, and follow-up care, and prepare an appropriate medical record.

Reasonable care and safety of the patient, not physician convenience is the standard. The physician is ultimately responsible for the safety of the patient

Following discussion, the Board agreed that it would not provide a response to the Medical Quality Assurance Commission at this time.

5. Proposed Rules Amendments WAC 246-851-160 – Credit for reports and WAC 246-851-170 - Credit for preprogrammed educational materials.

Potential amendments to these rules have been discussed at the December 2002, March 2003, and June 2003, meetings.

At its June 13, 2003, meeting, the Board discussed combining WAC 246-851-160 and WAC 246-851-170 to provide for a total of 25 hours of continuing education for the combined categories. Dr. Sutro was asked to draft a proposed rule to reflect the Board's discussion.

Dr. Sutro presented proposed draft revision of WAC 246-851-170. The proposed rule has been renamed Self-study educational activities and allows for no more than a total of 25 credit hours. The proposed rule is further broken down into:

- Credit for reports – typewritten reports on publications
- Credit for preprogrammed material such as correspondence courses and courses offered through the Internet.

Up to ten credits can be granted for reports. A maximum of 25 credits can be earned in the two combined categories.

Staff will prepare the rules for filing.

6. Order of Labs and Radiological Testing Pertaining to the Practice of Optometry – Discussion and Recommendation

Thomas Riley, O.D., expressed his concern that rules being promulgated to implement the oral medications authority also clarify the extent of authority that optometrist have to order imaging and lab tests pertaining to the practice of optometry.

Marc Defreyn, AAG to research this matter and report to the Board at its December 5, 2003, meeting.

7. Review of Open Public Meetings Act and E-Mail Communications - Marc Defreyn,

Marc Defreyn, AAG Advisor to the Board, spoke about the appropriateness of e-mail communication between Board members that discuss current or potential Board business. This portion of the meeting was meant for review for long standing members and as information for newer members.

8. Optometric Physician of Washington request clarification of Minutes of March 14, 2003 Meeting. Interpretive Statement Review on Corneal Reshaping Therapy

At its December 2002, meeting, the Board first considered a request from the Department of Health for an Interpretive Statement to consider whether corneal reshaping with contact lenses to correct low and moderate myopia is within the scope of practice of a dispensing optician.

An Interpretive Statement is a written expression of the opinion of an agency, as to the meaning of a statute or other provision of law, or a court decision, or of an agency order.

The department received a request from the Optician Association of Washington questioning whether corneal refractive therapy was within the scope of practice of opticians. All licensing programs were contacted to request feedback on whether the issue of corneal refractive therapy by dispensing opticians in any way impacted their program.

The March minutes of the Board of Optometry stated, in part:

After considering the available information, the Board responded that the corneal reshaping system developed by Paragon, referenced in the request for interpretive statement, requires more than incidental revision during the fitting period and that the revisions would alter the effect of the written prescription. RCW 18.195.020(3) of the Consumer Access to Vision Care Act provides that the revision may not alter the effect of the written prescription. Based on the statute, the Paragon system for corneal reshaping to correct myopia would be outside the scope of practice for opticians

The Optometric Physicians of Washington (OPW) through their attorney questioned the authority of the Board of Optometry to rule on whether a particular matter is included within the scope of practice of another profession.

The Board discussed the letter from OPW and asked that the March minutes be changed to more accurately reflect that the Board was responding to the request by the Department for feedback on the requested interpretive statement, not interpreting scope of practice for dispensing opticians.

Staff will make the changes in the March 2003 meeting minutes as indicated and notify OPW.

9. Reports on June 15-18, 2003, Meeting of the Association of Regulatory Board of Optometry – R. Richard Ryan, O.D.

Richard Ryan, OD., reported on his trip to the June 15-18, Annual Meeting of the Association of Regulatory Board of Optometry held in San Diego, California. Dr. Ryan's report included information on the construction and administration of the current national licensing examination offered by the National Board of Examiners in Optometry.

Dr. Ryan's report outlined a number of legal issues and cases of interest to practitioners and state regulatory boards.

The issue of licensure mobility has resulted in the forming of a committee to study the viability of national endorsement. This group called the Council on Endorsement Licensure Mobility for Optometrists, or CELMO, presented a proposal during general session of how they feel the program could work. State Boards will be receiving more information on the proposed national credentialing.

Dr. Ryan made a number of recommendations as a result of his attending this annual meeting, including:

- A member of the Board should be sent to the regional NBEO Part III testing site to observe the process at least every two years.
- Recommend legislation to the appropriate agencies on the following:
 - Passive vs. active prescription release
 - Delivery of contact lenses to consumers from entities based outside of Washington.
 - Amplification of contact lens release law to include definition of a "contact lens" and definition of "plano" contact lenses.
- Consider sending more than one Board member to the 2004 ARBO meeting.

10. Continuing Education Courses

10.1 Review of courses submitted for approval.

The Board approved the following courses:

"Update on Anterior and Posterior Segment Disease" a lecture by Mark Everett, O.D., submitted by Pacific Cataract and Laser Institute. presented on May 23, 2003, in Spokane, Washington. Approved for 1.5 hours.

"Malpractice in Eye Care: What You Should Know" a lecture by John Guadnola, submitted by Pacific Cataract and Laser Institute, presented on May 28, 2003, in Bellevue, Washington. Approved for two hours.

"Review of Pediatric Ophthalmology and Review of Neuro-ophthalmolgy", lectures by Jim Guzek, M.D., and "Restasis" a lecture by Mark Maraman., courses submitted by Pacific Cataract and Laser Institute, presented on April 25, 2003, in Lewiston, Idaho. Approved for four hours.

"Interferon Retinopathy & Dry Eye Evaluation and Smart Plug" a lecture by Tan-Long Pham, O.D. and Bruce Flint, O.D., submitted by Pacific Cataract and Laser Institute, presented on June 11, 2003, in Kennewick, Washington. Approved for two hours.

"The Optic Nerve in Glaucoma and a Summary of OHTS" a lecture by Mark Everett, O.D., courses submitted by Pacific Cataract and Laser Institute, presented on June 27, 2003, in Spokane, Washington. Approved for 1.5 hours.

"2003 Fall Conference Ophthalmology Update" submitted by Spokane Eye Clinic, presented on October 4, 2003, in Spokane, Washington. Approved for four hours.

"Infectious Disease Conference" held July 12, 2003, in Longview, Washington. Course was submitted by Ronald Scaman, O.D., approved three hours.

10 reports submitted by Katherine Ruecker, O.D. 10 credit hours were approved as set forth in WAC 246-851-160.

"The RBRVS System. Getting Paid What You Are Worth" lecture by Alan Homestead, O.D., May 30, 2003, in Sumner, Washington, approved for six hours.

"Vitreoretinal Disease Update 2003, course submitted by Chris Fairborn O.D. Presented by the Texas Retina Associates on April 27, 2003, in Dallas, Texas and approved for 4 hours.

15 Credit hours were approved for submission made by Jeffrey Hiatt, O.D. 5 credit hours for reports were approved as set forth in WAC 246-851-160 and 10 credit hours granted for preprogrammed education as set forth in WAC 246-851-170.

"Association in Research in Vision and Ophthalmology 2003", submitted by Yi Li, O.D. Program was held in Florida and was approved for 15.5 hours.

“Diabetic Eye Disease,” a publication written and submitted by Paul Chous, O.D. was approved for 10 credit hours the maximum allowed in WAC 256-851-150.

10 Credit hours were approved for Molli Dutra, O.D., Karl Bakken, O.D., Jenna Fukushima, O.D., and Robert Brakke, O.D. for their May 22-28, 2003, Volunteer Optometric Services for Humanity (VOSH) trip to Puerto Vallarta, Mexico

“EPICCARE Startup Web-Based Training”, On-going training presented by Group Health, approved 2 hours of practice management.

Twenty (20) Credit hours were submitted and approved for Thomas Riley, OD in the following categories:

WAC 246-851-160 Credit for Reports (4 hours)

WAC 246-851-150 Credit for Publications (7 hours)

WAC 246-851-180 Credit for Lecturing (9 hours)

“International Vision Expo West 2003”, presented by the Association Exposition and Services a division of Vision Council of America in Las Vegas, Nevada, September 17-20, 2003. The board has granted approval for all courses that are at the post-graduate level or that have obtained C.O.P.E. approval.

Five Credit hours were approved for a publication submitted by Doug Harshman, O.D.

The Board did not approve the following course

“New Dietary Interventions in the Treatment of Chronic Disease” submitted by Foundation Care Management.

“On-Call Meeting” submitted by the Harman Eye Clinic

10.2 Designation of Reviewer Through December 5, 2003

Jeffrey Sutro, O.D., and Mary Lou Staples were designated as reviewers for continuing education courses through December 5, 2003.

11. Budget Report

The Board considered revenue and expenses for the month ending June 2003.

12. Presentation of Orders

Deferred to a subsequent meeting

13. Other Open Session Business

CLOSED SESSION

14. Review of Licensing Applications

The Board reviewed three licensing applications.

15. Disciplinary Case Review

The Following cases were reviewed:

<u>Case Number</u>	<u>Disposition</u>
2003-01-0002OD	Closed, refer to Federal Trade Commission
2003-03-0001OD	Closed, no violation determined
2003-03-0001OD	Closed, no violation determined
2003-07-0002OD	Closed, no jurisdiction
2003-07-0003OD	Closed, no jurisdiction
2003-07-0004OD	Closed, not a violation
2003-08-0001OD	Refer for investigation

16. Other Closed Session Business

There being no further business, the meeting was adjourned at 3:30 p.m.

Respectfully submitted: _____
Judy Haenke, Program Manager

Approved: _____
R. Richard Ryan, O.D., Chair